

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DONALD GARNER,

Plaintiff,

v.

No. 24-cv-0422-KG-SCY

FNU WILKENS, *et al*,

Defendants.

ORDER OF DISMISSAL

This matter is before the Court following Plaintiff Donald Garner's failure to cure deficiencies in his prisoner civil rights action. Plaintiff is state inmate and is proceeding *pro se*. In the opening Letter-Complaint Regarding Civil Rights Violations, Plaintiff alleges his prison transfer and conditions of confinement violate the Eighth and Fourteenth Amendments. (Doc. 1) (Letter-Complaint). Plaintiff filed a Notice of Claim after filing the Letter-Complaint, which includes additional factual allegations. (Doc. 2). He also filed a Motion to Proceed *In Forma Pauperis*, which attaches some - but not all - of the pages from the Court's form 42 U.S.C. § 1983 complaint. (Doc. 3) (IFP Motion). The IFP Motion does not attach a six-month inmate account statement, as required by 28 U.S.C. § 1915(a).

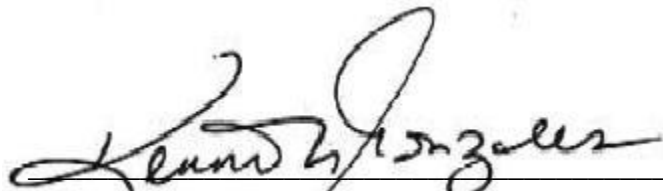
Rather than attempting to discern the claims raised in the piecemeal filings, the Court directed Plaintiff to file a single, amended complaint that includes all claims/factual allegations within thirty (30) days. (Doc. 4) (Cure Order). The Court also directed Plaintiff to submit an inmate account statement. *Id.* The Clerk's Office mailed Plaintiff a blank civil rights complaint and a blank *in forma pauperis* motion with instructions. The Cure Order warns that the failure to timely comply with both directives may result in dismissal of this action without further notice.

Id.

The deadline to file a single, amended complaint and an account statement expired on October 16, 2024. Plaintiff did not comply with either directive, show cause for such failure, or otherwise respond to the Order. Hence, the Court will dismiss the Letter-Complaint (Doc. 1) and Notice of Claim (Doc. 2) without prejudice under Fed. R. Civ. P. 41(b) for “failure to prosecute [and] ... comply with court orders.” *Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003). The Court will also deny Plaintiff’s Motion to Proceed *In Forma Pauperis* (Doc. 3), which is now moot.

IT IS ORDERED:

1. Plaintiff’s Letter-Complaint Regarding Civil Rights Violations (Doc. 1) and Notice of Claim (Doc. 2) are dismissed without prejudice.
2. The Motion to Proceed *In Forma Pauperis* (Doc. 3) is denied as moot.
3. The Court will enter a separate judgment closing the civil case.



UNITED STATES DISTRICT JUDGE